BILL NO. S-90-06-45

SPECIAL ORDINANCE NO. S-166-90

AN ORDINANCE approving the awarding of Reference #940 by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and **MAC DONALD MACHINERY** for the Water Pollution Control Maintenance Department.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA;

SECTION 1. That Reference #940 between the City of Fort Wayne, by and through its Department of Purchasing and **MAC DONALD MACHINERY** for the Water Pollution Control Maintenance Department, respectfully for:

> **the purchase of a hydraulic breaker for the Water Pollution Control Maintenance Department;**

involving a total cost of Ten Thousand Nine Hundred Eighty and no/100 Dollars ($10,980.00), all as more particularly set forth in said Reference #940 which is on file in the Office of the Department of Purchasing, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Councilmember

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay, City Attorney

REF. NO.:	940
DEPT.:	WPC MAINTENANCE
DATE:	6/20/90
ITEM/SERV.:	HYDRAULIC BREAKER

PURCHASING INFORMATION

ADVERTISED BID:	YES
DATES ADVERTISED:	3/29 & 4/5
OPENING DATE:	4/19/90
WRITTEN QUOTE:	
DUE DATE:	
VERBAL QUOTE:	
SINGLE SOURCE:	
NO. OF VENDORS NOTIFIED:	7
NO. OF VENDORS RECEIVING BID:	4
NO. OF VENDORS RETURNING BID:	2
NO. OF VENDORS DISQUALIFIED:	0
NO. OF VENDORS NOT RESPONDING:	5
DATE SENT TO DEPT FOR RECOMM.:	4/19/90
DATE RECOMMENDATION REC'D IN PURCH:	6/20/90
COUNCIL INFORMATION	DATES SENT EXTENSION DATES
DATE INFO SENT TO LAW DEPT.:	6/20/90
INTRODUCTION DATE:	6/26/90
DISCUSSION DATE:	7/3/90
PASSAGE DATE:	7/10/90
ORDINANCE NO.:	

REFERENCE NO. 940
WPC MAINTENANCE
HYDRAULIC BREAKER

DESCRIPTION	QTY	MAC DONALD	ALLEN CO TRACT
HYDRAULIC BREAKER	1	$10,980.00	$9,614.00
DELIVERY TIME		60 DAYS	60 DAYS

TO: CITY ATTORNEY

FROM: DEPARTMENT OF PURCHASES

APPROVED BY: Gloria J. Goeglein
GLORIA J. GOEGLEIN

DATE: JUNE 20, 1990

SUBJECT: AWARD OF REFERENCE NO. 940

****

FILE # ASSIGNED BY RECORDS LIBRARIAN

****

ACTION REQUESTED:

Please prepare an ordinance to be introduced in City Council on June 26, 1990, approving the award of Ref. No. 940 for the purchase of a hydraulic breaker for the Water Pollution Control Maintenance Department. The cost reflects the most responsive of two (2) vendors and should be awarded to Mac Donald Machinery in the amount of $10980.00. This will be assigned a purchase order upon Councilmanic Approval.

FRONT PAGE/INVITATION TO BID
DEPARTMENT OF PURCHASING
CITY OF FORT WAYNE, ALLEN COUNTY, INDIANA
ONE MAIN STREET - ROOM 350
PHONE 219-427-1101

BID OPENING DATE 4-19-90 @ 11:00 AM BID REFERENCE # 940

SEALED BIDS SHOULD BE DELIVERED TO DEPARTMENT OF PURCHASING, ROOM 350, CITY-COUNTY BUILDING UP TO 11:00 A.M. ON OR BEFORE OPENING DATE.

SEALED BIDS WILL BE OPENED PUBLICLY AT 11:01 A.M. IN THE BOARD OF WORKS & SAFETY CONFERENCE ROOM ON THE THIRD FLOOR OF THE CITY-COUNTY BUILDING. "NO LATE BIDS WILL BE ACCEPTED AFTER 11:00 A.M. FOR ANY REASON WHATSOEVER".

THIS INVITATION FOR BID IS FOR HYDRAULIC BREAKER PER SPECIFICATIONS

AND REQUESTED BY WATER POLLUTION CONTROL MAINTENANCE

THIS BID REQUIRES A XXXXXX 5% BID BOND, CERTIFIED OR CASHIER'S CHECK OF ALL BIDDERS.

THIS BID REQUIRES A XXXXXX 100% PERFORMANCE BOND OF SUCCESSFUL BIDDER(S).

PROMPT PAYMENT DISCOUNTS WILL BE ALLOWED AS FOLLOWS: _____% IF PAID WITHIN _____ DAYS.

THIS INVITATION IS ISSUED TO ESTABLISH A CONTRACT TO SUPPLY THE CITY OF FORT WAYNE WITH A COMMODITY OR SERVICE IN ACCORDANCE WITH ACCOMPANYING SPECIFICATIONS.

THE EXECUTION HEREOF BY THE BIDDER IS ACCEPTANCE OF ALL TERMS AND CONDITIONS HEREIN AND IN THAT REGARD THE BIDDER AGREES TO BE BOUND BY SAME AND BE BOUND TO THE AMOUNT OF HIS/HER BID FOR A PERIOD OF NINETY (90) DAYS.

FIRM NAME MacDonald Machinery Co., Inc.

STREET ADDRESS 3911 Limestone Drive

CITY Fort Wayne PHONE # 747-1561

BY _____ Secretary
REPRESENTATIVE SIGNATURE

W.P.C.M.D.
CITY UTILITIES
CITY OF FORT WAYNE

503 E. WALLACE ST.
FORT WAYNE, IN 46802
(219) 427-1255

BID PRICE PAGE
BASE BID

HYDRAULIC BREAKER

BID PRICE $ 10,980.00 Ten Thousand Nine Hundred Eighty and 00/100
(Price in Words

DELIVERY AFTER RECEIPT OF ORDER: 30 days (Calendar)

VALIDITY OF PRICE ON BASE BID: 60 days (Calendar)

COMPANY NAME: MacDonald Machinery Co., Inc.

Mark J. Johnston
(Company Bidder's Signature)

Mark J. Johnston - Secretary
(Bidder's Typed Name)

DATE: 4-19-90

TOLL-FREE TELEPHONE NUMBER 747-1561

GENERAL PROVISIONS AND REQUIREMENTS

Experience:

The equipment to be furnished shall be the product of a qualified firm that is regularly engaged in the manufacture and supply of this equipment. A qualified firm shall be defined to mean one which has manufactured and sold twenty or more of the specified units during the past two years. A list of at least twenty users shall be supplied. For purpose of this requirement, units with steel water tanks which otherwise meet these specifications may be referenced.

Parts and Service

To best serve the requirements of the the W.P.C.M.D., it is the intent of these specifications to secure equipment which can be properly maintained and serviced without the necessity of stocking an expensive parts inventory or being subjected to long periods of interrupted serviced due to lack of spare parts.

All suppliers submitting proposals shall have available a factory parts and service center. The center shall be staffed with full time technical, as well as order and shipping personnel during regular business hours and days. The factory center shall have toll free telephone or agree to accept all collect calls from owner and be convenient to air freight, bus or overnight parcel service. The supplier shall list its nearest parts and service location, plus any other pertinent information requested.

Exceptions and Acceptability

Exceptions to the component list and specification requirements, or failure to submit requested information shall be considered sufficient cause for rejection of a proposal. W.P.C.M.D., CITY UTILITIES, CITY OF FORT WAYNE, reserves the right to reject any all bids, to waive any and all informalities, to negotiate contract terms with the successful bidder, and the right to disregard all nonconforming, nonresponsive or conditional bids, if rejection or waiver is in its best interest.

Information to be furnished by Supplier:

Each supplier shall furnish the following information with its proposal: (Please check each item to indicate compliance)

A.	Bid Price Page	X
B.	Detailed Component List Including Spare Parts	X
C.	Complete System Specifications	X

D.	Literature describing all major components in detail to include all optional equipment	X
E.	Photographs of a complete unit identical to the one to be supplied	X
F.	Compliance to the specifications shall be answered by a yes or no, and deviations and/or exceptions shall be clearly indicated on an attached sheet and referenced by component to aid in proper evaluation	X
G.	Supply full details outlining warranty	X
H.	Supply certified surety company's statement of readiness to furnish a 100% performance bone within 10-day notice	X

Performance Bond

Each bidder shall furnish with the bid document a statement from a certified surety company that they shall be prepared to furnish a 100% Performance Bond within 10 days after notification of the award. The Performance Bond shall be forfeited in the event the equipment is not delivered as specified or in the event it does not operate in accordance with the specifications.

Certificate of Insurance

The successful bidder shall supply a minimum of $1,000.000 of Bodily Injury and Property Damage Insurance, including but not limited to a Broad Form Liability Endorsement and Products and Completed Operations coverage. A Certificate of Insurance showing the $1,000,000 coverage shall be provided with the bid. Failure to supply the certificate of insurance shall be considered sufficient cause for rejecting the bid.

Bid Prices

Bid prices, including optional-item-bid-prices, for this system, as specified, shall include, but not be limited to, the following:

The complete system installed and delivered to W.P.C.M.D., City Utilities, 503 E. Wallace Street, Fort Wayne, Indiana.

Demonstration of the Equipment

The W.P.C.M.D. requires each supplier demonstrate the equipment they shall supply prior to bid opening. Failure to demonstrate said equipment shall be cause for disqualification of the proposal.

Prescribed by the State Board of Accounts

Form No. 95 (Revised 1987)

BID, OFFER OR PROPOSAL FOR SALE OR LEASE OF MATERIALS

(Defined at I.C. 36-1-2-9.5)
(Please type or print)

Date: 4-19-90

1. Governmental Unit: City of Fort Wayne
2. County: Allen
3. Bidder (Firm): MacDonald Machinery Co., Inc.
   Address: 3911 Limestone Drive
   City/State: Fort Wayne, IN 46809
4. Telephone Number: (219) 747-1561
5. Agent of Bidder (if applicable): _____

Pursuant to notices given, the undersigned offers bid(s) to City of Fort Wayne (Governmental Unit) in accordance with the following attachment(s) which specify the class or item number or description, quantity, unit, unit price and total amount.

The contract will be awarded by classes or items, in accordance with specifications. Any changes or alterations in the items specified will render such bid void as to that class or item. Bidder promises that he has not offered nor received a less price than the price stated in his bid for the materials included in said bid. Bidder further agrees that he will not withdraw his bid from the office in which it is filed. A certified check or bond shall be filed with each bid if required, and liability for breach shall be enforceable upon the contract, the bond or certified check or both as the case may be.

Signature of Bidder or Agent

Mark J. Johnston - Secretary

BID OFFER OR PROPOSAL

Attach separate sheet listing each item bid based on specifications published by governing body. Following is an example of the bid format:

Class or Item	Quantity	Unit	Description	Unit Price	Amount
	1	Stanley Breaker	Per Spec.		10,980.00

NON-COLLUSION AFFIDAVIT

STATE OF INDIANA)
) SS:
Allen COUNTY)

The undersigned bidder or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to induce anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

MacDonald Machinery Co., Inc.
Bidder (Firm)

Signature of Bidder or Agent, Secretary

Subscribed and sworn to before me this 19 day of April, 1990.

My Commission Expires: 2/19/91

County of Residence: Allen

Notary Public

Elaine Vodde
Notary Public Printed Name

ACCEPTANCE

There now being sufficient unobligated appropriated funds available, the contracting authority of _____ (Governmental Unit) hereby accepts the terms of the attached bid for classes or items numbered _____ and promises to pay the undersigned bidder upon delivery the price quoted for the materials stipulated in said bid.

Date: _____

Contracting Authority Members:

_____ _____
_____ _____
_____ _____

Bond No. APR 1 3 19

Fidelity and Deposit Company

HOME OFFICE OF MARYLAND *BALTIMORE, MD. 21203*

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, MacDonald Machinery Company, Inc.
P.O. Box 11372, Fort Wayne, Indiana 46857
, as Principal, (hereinafter called the "Principal"), and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, of Baltimore, Maryland, a corporation duly organized under the laws of the State of Maryland, as Surety, (hereinafter called the "Surety"), are held and firmly bound unto City of Fort Wayne, Indiana
as Obligee, (hereinafter called the "Obligee"), in the sum of Five Percent (5%) of Maximum Bid Dollars ($), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for
One (1) New Hydraulic Breaker

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with the terms of such bid and give such bond or bonds as may be specified in the bidding or contract documents with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter into such contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 19th day of April A.D. 19 90

Witness

MacDonald Machinery Company, Inc. (SEAL)
Principal
By: SECRETARY
Title

FIDELITY AND DEPOSIT COMPANY OF MARYLAND
Surety

Witness

By Attorney-in-Fact (SEAL)
Title

C325d—150M.
Approved by The American Institute of Architects.
A.I.A. Document No. A-310 February 1970 Edition.

Power of Attorney

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

HOME OFFICE, BALTIMORE, MD

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by C. M. PECOT, JR. , Vice-President, and C. W. ROBBINS , Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint John H. Brimner, Stephen E. Stewart, Kathryn J. Beauchot and Tamara L. Tipton, all of Fort Wayne, Indiana, EACH.....

its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, each in a penalty not to exceed the sum of ONE MILLION DOLLARS ($1,000,000).....

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of John H. Brimner, etal, dated, August 11, 1989.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 16th day of January, A.D. 1990

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

ATTEST: SEAL

C W Robbins
Assistant Secretary

By C M Pecot
Vice-President

STATE OF MARYLAND
CITY OF BALTIMORE } ss:

On this 16th day of January , A.D. 19 90 , before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposeth and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.

CAROL J. FADER NOTARY PUBLIC BALTIMORE CITY MD

Carol J. Fader

Notary Public Commission Expires July 1, 1990

CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 19th day of April, 1990.

044-3435

Christopher T. Maddox
Assistant Secretary

FOR YOUR PROTECTION LOOK FOR THE F&D WATERMARK

Read the first time in full and on motion by Burns, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council ~~Conference Room~~ 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____.M.,E.S.T.

DATED: 6-26-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Burns, seconded by Talarico, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	7			2
BRADBURY	✓			
BURNS	✓			
EDMONDS	✓			
GiaQUINTA				✓
HENRY				✓
LONG	✓			
REDD	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 7-10-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ ~~(GENERAL)~~ (SPECIAL) (~~ZONING~~ MAP) ORDINANCE ~~RESOLUTION~~ NO. R-166-90 on the 10th day of July, 19 90,

ATTEST: Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL

Charles S. Redd
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of July, 1990 at the hour of 10:00 o'clock A.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 12th day of July, 1990, at the hour of 2:00 o'clock P.M.,E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

DIGEST SHEET

TITLE OF ORDINANCE: Special

DEPARTMENT REQUESTING ORDINANCE: Purchasing

SYNOPSIS OF ORDINANCE: An ordinance approving the award of Ref. No. 940 for the purchase of a hydraulic breaker for WPC Maintenance Department. The cost reflects the most responsive of two (2) vendors.

J-90-06-45

EFFECT OF PASSAGE: This unit is attached to the arm of the backhoe and hydraulically breaks concrete-saves on back injuries.

EFFECT OF NON-PASSAGE: Longer production time and more back injuries.

MONIES INVOLVED: Mac Donald Mach $10,980.00

PRICE AGREEMENT:

PURCHASE ORDER: Yes

SOURCE OF FUNDING: WPC Maint 514-533-B101-4441

PRIOR APPROVAL: DATE:
(IF APPLICABLE)

BILL NO. S-90-06-45

REPORT OF THE COMMITTEE ON CITY UTILITIES

PAUL M. BURNS, CHAIRMAN
MARK E. GiaQUINTA, VICE CHAIRMAN
HENRY, LONG, TALARICO

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS

REFERRED AN (ORDINANCE) (RESOLUTION) approving the awarding of Reference #940 by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and MAC DONALD MACHINERY for the Water Pollution Control Maintenance Department

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (RESOLUTION)

DO PASS	DO NOT PASS	ABSTAIN	NO REC

DATED: 7-P-90

Sandra E. Kennedy
City Clerk